

Department of Justice

§ 79.27

(E) Oncology summary or consultation report;

(iv) Report of one of the following radiographic studies:

(A) Ultrasonography;

(B) Endoscopic retrograde cholangiography;

(C) Percutaneous cholangiography;

(D) Computerized tomography (CT) scan;

(v) Death certificate, provided that it is signed by a physician at the time of death.

(11) *Cancer of the gall bladder.* (i) Pathology report of tissue from surgical resection;

(ii) Autopsy report;

(iii) Report of one of the following radiological studies:

(A) Computerized tomography (CT) scan;

(B) Magnetic resonance imaging (MRI);

(C) Ultrasonography (ultrasound);

(iv) One of the following summary medical reports:

(A) Physician summary report;

(B) Hospital discharge summary report;

(C) Operative report;

(D) Radiotherapy report;

(E) Oncology summary or report;

(v) Death certificate, provided that it is signed by a physician at the time of death.

(12) *Cancer of the liver.* (i) Pathology report of tissue biopsy or surgical resection;

(ii) Autopsy report;

(iii) One of the following summary medical reports:

(A) Physician summary report;

(B) Hospital discharge summary report;

(C) Oncology summary report;

(D) Operative report;

(E) Gastroenterology report;

(iv) Report of one of the following radiological studies:

(A) Computerized tomography (CT) scan;

(B) Magnetic resonance imaging (MRI);

(v) Death certificate, provided that it is signed by a physician at the time of death.

§ 79.27 Proof of no heavy smoking, no heavy drinking, no heavy coffee drinking and no indication of the presence of hepatitis B and cirrhosis.

(a)(1) If the claimant or eligible surviving beneficiary is claiming eligibility under this subpart for primary cancer of the esophagus, pharynx, pancreas, or liver, the claimant or eligible surviving beneficiary must submit, in addition to proof of the disease, all medical records listed below from any hospital, medical facility, or health care provider that were created within the period six (6) months before and six (6) months after the date of diagnosis of primary cancer of the esophagus, pharynx, pancreas, or liver:

(i) All history and physical examination reports;

(ii) All operative and consultation reports;

(iii) All pathology reports; and

(iv) All physician, hospital, and health care facility admission and discharge summaries.

(2) In the event that any of the records in paragraph (a)(1) of this section no longer exist, the claimant or eligible surviving beneficiary must submit a certified statement by the custodian(s) of those records to that effect.

(b) If the medical records listed in paragraph (a) of this section, or information possessed by the state cancer or tumor registries, reflects that the claimant was a heavy smoker or a heavy drinker or indicates the presence of hepatitis B and/or cirrhosis, the Radiation Exposure Compensation Unit will notify the claimant or eligible surviving beneficiary and afford that individual the opportunity to submit other written medical documentation or contemporaneous records in accordance with § 79.52(b) to establish that the claimant was not a heavy smoker or heavy drinker or that there was no indication of hepatitis B and/or cirrhosis.

(c) The Program may also require that the claimant or eligible surviving beneficiary provide additional medical records or other contemporaneous records and/or an authorization to release such additional medical and contemporaneous records as may be needed to make a determination regarding

§ 79.30

the indication of the presence of hepatitis B and/or cirrhosis and the claimant's history of smoking and alcohol consumption.

(d) If the custodian(s) of the records listed in paragraph (a) of this section and the records requested in accordance with paragraph (c) of this section certifies that a claimant's records no longer exist, and if the state cancer or tumor registries do not contain information concerning the claimant's history of smoking or alcohol-consumption, the Assistant Director may require that the claimant or eligible surviving beneficiary submit an affidavit (or declaration) made under penalty of perjury detailing the histories or lack thereof and, if the affiant (or declarant) is the eligible surviving beneficiary, the basis for such knowledge. This affidavit (or declaration) will be considered by the Assistant Director in making a determination concerning the claimant's history of smoking and alcohol consumption.

(e) In the case of primary cancer of the pancreas, the claimant or each eligible surviving beneficiary shall execute and provide an affidavit (or declaration under oath on the standard claim form) that sets forth the amount of regular or decaffeinated coffee that the claimant consumed on average per day for the twenty year period immediately prior to the date the claimant was diagnosed with primary cancer of the pancreas.

[Order No. 1580-92, 57 FR 12435, Apr. 10, 1992, as amended by Order No. 2213-99, 64 FR 13691, Mar. 22, 1999]

Subpart D—Uranium Miners

§ 79.30 Scope of subpart.

The regulations in this subpart define the eligibility criteria for compensation under section 5 of the Act, and the type and extent of evidence that will be accepted as proof of the prescribed criteria. Section 5 of the Act provides for a payment of \$100,000 to individuals who contracted lung cancer or one of a limited number of non-malignant respiratory diseases following exposure to defined minimum levels of radiation during employment in a uranium mine or uranium mines in certain states during the period beginning Jan-

28 CFR Ch. I (7-1-00 Edition)

uary 1, 1947, and ending December 31, 1971.

§ 79.31 Definitions.

(a) *Employment in a uranium mine* means any mining-related activity at a uranium mine that principally occurred underground. These activities/occupations include, but are not limited to: miner, miner's helper (nipper), production driller, long hole driller, tram operator (trammer, or motor-man), equipment operator (mucker), slusher operator (slusherman), laborer (bull gang), powderman, timberman, hoistman, skip tender, underground truck driver (trucker), shift foreman (boss, shifter, or leadman), mechanic, electrician, geologist, surveyor, surveyor's helper (rodman), grade controller (prober), air sampler, safety engineer, and mine superintendent (super). Noncompany personnel performing the following activities/occupations include, but are not limited to: mine inspectors, health physicists, and Atomic Energy Commission (AEC) geologists and engineers.

(b) *Uranium mine* means an underground excavation, regardless of the means of access, the primary or significant purpose of which was the extraction of uranium ore. Strip, rim, or open pit mines are excluded.

(c) *Working Level* means any concentration of the short half-life daughters of radon that will release 1.3×10^5 million electron volts of alpha energy per liter of air;

(d) *Working Level Month* means radiation exposure at the level of one working level every work day for a working month (170 hours), or an equivalent cumulative exposure over a greater or lesser amount of time.

(e) *Non-smoker* means an individual who never smoked tobacco cigarette products or who smoked less than the amount defined in paragraph (f) of this section and includes an individual who smoked at least one (1) pack year but whose acceptable documentation as set forth in § 79.37 establishes that he or she stopped smoking at least fifteen (15) years prior to the diagnosis of primary cancer of the lung, pulmonary fibrosis, fibrosis of the lung, cor pulmonale related to fibrosis of the lung, or moderate or severe silicosis or